

134-12/MFM
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In the Matter of the

IN ADMIRALTY

Complaint of Plaintiffs, McALLISTER
TOWING & TRANSPORTATION CO., INC. as
Owner and McALLISTER TOWING OF NEW
YORK, LLC, as Owner Pro Hac Vice of the Tug
PATRICE McALLISTER for Exoneration
from/or Limitation of Liability

**PETITIONERS/PLAINTIFFS'
RESPONSE TO CLAIM OF
IRONHEAD MARINE, INC.**

12 Civil 2505 (LAK)

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McALLISTER TOWING & TRANSPORTATION CO., Inc. as Owner and McALLISTER
TOWING OF NEW YORK, LLC, as Owner Pro Hac Vice of the Tug PATRICE McALLISTER
(hereinafter referred to as "McALLISTER") by their attorneys, Freehill, Hogan & Mahar LLP,
responds to Ironhead Marine, Inc.'s Claim Against Petitioners dated July 2, 2012 (commencing at
page 4 of its Answer and Claim dated July 2, 2012) upon information and belief as follows:

FIRST: McALLISTER admits the allegations contained in paragraphs numbered "1," "2,"
"3," "6," "11," "12," "13," "14," "15," "16," "21" and "22" of Ironhead Marine, Inc.'s Claim
against Petitioners.

SECOND: McALLISTER denies any knowledge or information to form a belief as to each and every allegation contained in paragraphs numbered “4,” “5,” “7,” “8,” “9,” “17,” “18” and “19” of Ironhead Marine, Inc.’s Claim against Petitioners.

THIRD: Answering paragraph numbered “10” of Ironhead Marine, Inc.’s Claim Against Petitioners, McALLISTER admits that the PATRICE McALLISTER was and still is a vessel with Official Number 1082214, and a Coast Guard Documented “gross tonnage of 149 tons.” McALLISTER denies any knowledge or information sufficient to form a belief as to each and every other allegation contained in paragraph numbered “10” of Ironhead Marine, Inc.’s Claim Against Petitioners.

FOURTH: Answering paragraph numbered “20” of Ironhead Marine, Inc.’s Claim Against Petitioners, McALLISTER admits that Eduardo Escobedo, Fleet Engineer McAllister Towing, was present at Ironhead Marine’s shipyard and aboard the tug during portions of the tug’s overhaul period. McALLISTER denies any knowledge or information sufficient to form a belief as to each and every other allegation contained in paragraph numbered “20” of Ironhead Marine, Inc.’s Claim Against Petitioners.

FIFTH: Answering paragraph numbered “23” of Ironhead Marine, Inc.’s Claim Against Petitioners, McALLISTER admits that present available information indicates that a cause or contributing cause of the fire was a cracked threaded pipe connected to the pre-lube oil pump on the tug’s port engine. Denies each and every other allegation contained in paragraph numbered “23.”

SIXTH: McALLISTER denies each and every allegation contained in paragraphs numbered “24,” “25,” “26” and “27” of Ironhead Marine, Inc.’s Claim and Answer.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

SEVENTH: In the event that this Honorable Court lacks jurisdiction over Ohio Machinery Company d/b/a Ohio Cat then this action should be transferred to Ohio federal court pursuant to 28 U.S.C. 1404(a).

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

EIGHTH: The incident onboard the tug PATRICE McALLISTER, including any loss, damages and/or injuries to persons onboard the tug, were not the result of any negligence, fault or want of due care on the part of McALLISTER.

WHEREFORE, McALLISTER demands that Ironhead Marine, Inc.'s Claim and Answer dated July 2, 2012 be dismissed with costs and attorneys' fees to McALLISTER as against Ironhead Marine, Inc. and that the Court grant to McALLISTER such other, further and different relief as the justice of the cause may require.

Dated: October 11, 2012

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